

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

PEGGY ACKER,)	
)	
Plaintiff,)	
)	
vs.)	No. CIV-14-527-C
)	
CAROLYN W. COLVIN, Acting)	
Commissioner of Social Security)	
Administration,)	
)	
Defendant.)	

ORDER ADOPTING REPORT AND RECOMMENDATION

This action for judicial review of the Commissioner's denial of disability insurance benefits was referred for initial proceedings to United States Magistrate Judge Gary M. Purcell, consistent with 28 U.S.C. § 636(b)(1)(B). Judge Purcell entered a Report and Recommendation on July 2, 2015, recommending that the decision of the Commissioner be affirmed. Plaintiff, through counsel, has timely filed an objection to this report, and the Court therefore considers the matter de novo.

In her Objection, Plaintiff first argues that the ALJ did not explain his assessment of her credibility. This argument is without merit for the reasons stated by Judge Purcell in his Report and Recommendation. Plaintiff largely relies on her second argument to support her credibility dispute. Her second argument is that the ALJ did not give sufficient weight to the opinion of the treating physician or explain why not. In fact, the treating physician gave no opinion (at least not any cited to by counsel) regarding disability. He diagnosed probable fibromyalgia, but did not offer any assessment of Plaintiff's pain or physical limitations

which would have any bearing on a determination of disability. The ALJ found Plaintiff suffered from fibromyalgia, a severe impairment (Tr. 16), thus giving unconditional weight to the treating physician. Beyond that, there was no opinion that was relevant to the ALJ's task. The portions of the records cited by Plaintiff are all simply a recitation of her self-reported symptoms, not a finding by her doctor. Finally, Plaintiff seems to argue that a diagnosis of fibromyalgia requires a finding of disability because of its symptoms. This is not legally or factually supportable.

Accordingly, the Court adopts, in its entirety, the Report and Recommendation of the Magistrate Judge, and for the reasons stated therein, the decision of the Commissioner in this case is affirmed. A judgment will enter accordingly.

IT IS SO ORDERED, this 31st day of July, 2015.



ROBIN J. CAUTHRON
United States District Judge